



OFFICE OF THE ATTORNEY GENERAL OF TEXAS
AUSTIN

GERALD C. MANN
ATTORNEY GENERAL

Department of Agriculture
Austin, Texas

Attention: Mr. Charles E. Baughman

Gentlemen:

Opinion No. O-4168

Re: Payment of traveling expenses incurred in connection with the placement and transfer of State owned jacks and stallions out of Item 107 of the appropriation made to the Department of Agriculture.

We quote below your letter of March 29th:

"The following is quoted from page 7 of Senate Bill 423, of the Forty-seventh Legislature, the same being the Departmental Appropriation Bill.

"For the fiscal years ending August 31, 1942, and August 31, 1943, all fees and/or unexpended balances which have been received and which may be received by virtue of Chapter 7, Article 133, R.C.S., 1925, Article 56 to 67 inclusive, R.C.S., 1925, and Chapter 93, Acts of the First Called Session of the Forty-first Legislature; Article 5764, R.C.S., 1925; Article 5695 R.C.S., 1925, Chapter 287, Acts of the Regular Session Forty-second Legislature; Chapter 304, Acts of the Regular Session of the Forty-first Legislature; H.B. No. 12, Acts of the First Called Session of the Forty-fifth Legislature; H.B. No. 99 and H.B. No. 557, Acts of the Forty-fifth Legislature, and as amended by J.B. No. 24, Acts of the First Called Session of the Forty-fifth Legislature; H.B. No. 500, Acts of the Regular Session of the Forty-second Legislature, and H.B. No. 888, Acts of the Forty-sixth Legislature; H.B. No. 623, Acts of the Regular Session of the Forty-third Legislature as amended; and any and all amendments to these

are hereby appropriated, after they shall have been deposited, in the State Treasury, for the payment of additional salaries, equipment, automobiles, traveling expense and other necessary expenses incident to the administration of these Acts, and such fees collected shall be used for no other purposes."

"Since the enactment of H.B. No. 12, revenues derived through the placement of state owned Jacks and Stallions have not been such as to supply needed funds to pay 'additional salaries, traveling and other expenses incident to the administration of the Act.

"Please advise whether the Department is authorized to supplement such funds out of Item 107, page 7, the same being appropriation for traveling expenses, to pay traveling expenses incurred in connection with the placement and transfer of state owned Jacks and Stallions."

Vernon's Revised Civil Statutes, Article 51-1, Section 3, provides:

"Section 3. The money derived from the leasing of the animals hereinabove mentioned shall be deposited by the Commissioner of Agriculture in the State Treasury where it shall be set up as a 'special jack and stallion fund' to be used by the Commissioner to pay the salaries of two competent supervisors at not to exceed \$1800 per year each for salaries and who shall receive the actual and necessary traveling expenses while away from Austin in the performance of their duties, which expenses shall not exceed amounts allowed other state employees under the terms and provisions of Senate Bill 138, Acts of the 45th Legislature, Regular Session, 1937, and in no event shall the salaries and expenses herein authorized exceed the amount collected annually from the lease or hire of animals as herein provided."

This is Section 3 of House Bill No. 12, Acts of the First Called Session of the 45th Legislature.

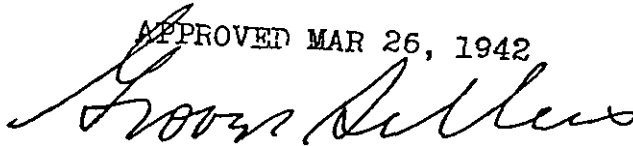
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The purpose of the provisions of the current appropriation bill which you quote in your letter is to appropriate to the Department of Agriculture for the current biennium the "special jack and stallion fund," to be used in accordance with the provisions of the Act creating the fund. House Bill 12 specifically provides that the expenses to be incurred by the supervisors of the jacks and stallions shall not exceed the amount collected annually from the lease or hire of the animals. It is clear, therefore, that the traveling expenses of persons engaged in doing this work cannot be paid from Item 107 of your appropriation, which is a provision of a certain sum of money for traveling expenses, generally, of the Department.

Yours very truly

APPROVED MAR 26, 1942

ATTORNEY GENERAL OF TEXAS



FIRST ASSISTANT
ATTORNEY GENERAL

By



R. W. Fairchild
Assistant

HMF:db

